

Hon. Benjamin H. Settle

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT TACOMA

DEBORAH LEPINE, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

PETSMART, INC., a Delaware
Corporation,

Defendant.

Case No. 3:17-cv-05488-BHS

**STIPULATED MOTION FOR SECOND
NOTICE AND DISTRIBUTION
PURSUANT TO COURT-APPROVED
CLASS ACTION SETTLEMENT
AGREEMENT**

NOTED FOR HEARING DATE:
NOVEMBER 30, 2018

STIPULATION FOR SECOND NOTICE
AND DISTRIBUTION
CASE NO. 3:17-cv-05488-BHS

HAMMONDLAW, P.C.
1829 REISTERSTOWN RD., SUITE 410
BALTIMORE, MD 21208; P: (310) 601-6766

1 Plaintiff Deborah Lepine and Defendant PetSmart, Inc, through their undersigned counsel
2 of record, hereby stipulate and move this Court for an order granting approval of a second notice
3 and distribution pursuant to the Court-approved Class Action Settlement Agreement based on the
4 following:

5 WHEREAS, on October 10, 2018, the Court granted final approval of Class Action
6 Settlement (Dkt. 39);

7 WHEREAS, after the Court's entry of the Final Approval Order, Defendant informed
8 Class Counsel that it had discovered that it had inadvertently excluded 70 individuals (the
9 "Newly Identified Class Members") from the initial class list provided to the Settlement
10 Administrator;

11 WHEREAS, Defendant has conducted a rigorous analysis of its timekeeping, payroll and
12 Human Resources databases and is confident that it has discovered all Newly Identified Class
13 Members. *See* Declaration of Liz Wheeler filed with this Motion;

14 WHEREAS, as a result, the parties agree to send a second notice to the Newly Identified
15 Class Members, informing them of the nature of the lawsuit and the Settlement Agreement, their
16 anticipated individualized settlement payment amounts, and their right to object or opt out of the
17 settlement;

18 WHEREAS, the second notice will be identical in substance to the original class notice
19 issued to the original Class Members and approved by this Court (Dkts. 28, 39), including
20 provisions for opting-out and objecting to the Settlement, but with some slight modifications to
21 explain the need for a secondary distribution, and to provide updated calculations showing each
22 Newly Identified Class Members' individual settlement share;

23 WHEREAS, the parties further agree that after completion of the secondary notice, a
24 second non-reversionary payment shall be made by Defendant in the amount of \$125,000 and
25 distributed as follows:
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- 1 (a) Settlement administration costs of no more than \$1,000 to Simpluris, Inc. for
2 administering the second notice and distribution.
- 3 (b) Class Counsel will also seek approval of attorneys' fee in the amount of 30% of the
4 secondary distribution, or \$37,500. This is the same percentage sought (30%) and
5 approved by the Court in relation to the original \$700,000 Settlement Amount. (Dkt.
6 30, p. 12; Dkt. 39).
- 7 (c) Class Counsel will seek \$1,268.24 for reimbursement of litigation costs and expenses
8 incurred obtaining approval of the secondary notice.
- 9 (d) The remaining balance, which the parties estimate to be \$85,231.76, to be paid to the
10 Newly Identified Class Members who do not opt-out of the secondary distribution.
11 The parties agree that the value of each Newly Identified Class Members' Groom Pay
12 Period shall be \$17.06, the same value of the Groom Pay Period payments approved
13 by the Court (Dkt. 36, p. 4). The parties further agree that the Newly Identified Class
14 Members worked approximately 4,996 Groom Pay Periods, so the total amount to be
15 allocated to the Newly Identified Class Members is estimated to be approximately
16 \$85,231.76.
17

18 WHEREAS, pursuant to the Final Approval Order entered by this Court, the deadline for
19 PetSmart to deliver the original Settlement Amount of \$700,000 to the Administrator is
20 December 11, 2018; the deadline for distribution of Attorney Fees, Costs and Class
21 Representative Award is December 18, 2018, and the deadline to distribute funds to the original
22 Class Members is December 27, 2018;

23 WHEREAS, the parties agree that the distribution of the original Settlement Amount
24 shall be made in accordance with the Final Approval Order and should not be postponed pending
25 the Court's determination of the parties' request for secondary notice and distribution, so that the
26 original Class Members who are participating in the original distribution can obtain relief
27 without further delay;
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1 WHEREAS, pursuant to the Final Approval Order, this Court retains exclusive and
2 continuing jurisdiction over the case for purposes of supervising, implementing, interpreting and
3 enforcing the Final Approval Order and the Settlement Agreement, as may become necessary,
4 until all of the terms of the Settlement Agreement have been fully carried out (Dkt. 39, p. 5);

5 NOW THEREFORE, IT IS HEREBY STIPULATED, by and between the parties, that:

6 (a) the Court approve sending a secondary notice to the Newly Identified Class Members
7 in a form consistent with Exhibit A attached to the Parties' Proposed Order Granting
8 this Motion;

9 (b) the Court approve payment and distribution of a secondary Settlement Amount in the
10 amount of \$125,000;

11 (c) the Court approve payments from the secondary Settlement Amount to each Newly
12 Identified Class Member based on a calculation of \$17.06 per Groom Pay Period
13 worked in the Class Period; an administration fee of not more than \$1,000 to
14 Simpluris, Inc. for administering the second notice and distribution; a payment of
15 30% of the secondary Settlement Amount in attorneys' fees in the amount of \$37,500;
16 and payment of \$1,268.24 to Class Counsel for their reasonable incurred litigation
17 costs; and
18

19 (d) the Court approve that the distribution of the original Settlement Amount to the
20 original Class Members shall be made in accordance with the deadlines articulated in
21 the Court's Final Approval Order (Dkt. 39).

1 STIPULATED TO AND RESPECTFULLY SUBMITTED AND DATED this 30th day of
2 November, 2018.

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4 s/ Julian Hammond

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